

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Derrick Prophet,	:	
	:	
Plaintiff(s),	:	
	:	Case Number: 1:11cv304
vs.	:	
	:	Chief Judge Susan J. Dlott
Carla Oneal, et al.,	:	
	:	
Defendant(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Stephanie K. Bowman filed on May 13, 2011 (Doc. 4), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired May 28, 2011, hereby ADOPTS said Report and Recommendation.

However, following the filing of the Report and Recommendation, plaintiff filed a motion for leave to appeal IFP (Doc. 6) and a notice of appeal (Doc. 5). On July 11, 2011, the Court of Appeals issued an Order dismissing the appeal since a final judgment had not been entered by the district court.

Accordingly, plaintiff's motion for leave to appeal IFP (Doc. 6) is hereby **DENIED**.

Plaintiff's complaint is **DISMISSED**.

The Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of any Order adopting the Report and Recommendation is not taken in good faith and therefore denies plaintiff leave to appeal *in forma pauperis* in the court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6<sup>th</sup> Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6<sup>th</sup> Cir.

1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court